IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 6304 of 2005(A)

PETITIONER:

P.K.MOOSA, S/O. ISMAIL,
REHMAT HOUSE, PERINGAVU, VAZHAYOOR VILLAGE,
ERNADU TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.P.M.POULOSE

RESPONDENTS:

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1. TALUK LAND BOARD,
ERNAD, MALAPPURAM DISTRICT,
REPRESENTED BY ITS CHAIRMAN.

2. DISTRICT COLLECTOR, MALAPPURAM.

3. THAHSILDAR, ERNAD TALUK,
MALAPPURAM DISTRICT.

BY SR. GOVERNMENT PLEADER SRI.BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, ALONG WITH WPC NO. 16552 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.6304 OF 2005)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of order dtd.23.6.1979 of the Taluk Land Board.

Ext.P2: Copy of the petition under Rule 136A dtd.16.8.2004 by the petitioner.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) Nos. 6304 OF 2005 & 16552 OF 2007

Dated this the 18th day of July, 2007

J U D G M E N T

W.P(C) No.6304 of 2005 is filed by a successor-in-interest of a declarant in a ceiling case under the Kerala Land Reforms Act, whose ceiling case was finalised by Ext.P1 order dated 23.6.1979 of the Taluk Land Board. After 25 years, on 16.8.2004, the petitioner filed Ext.P2 application before the Taluk Land Board under Rule 136A of the Kerala Land Reforms (Tenancy) Rules, 1970 for correction of an alleged mistake in Ext.P1 order. The petitioner seeks a direction to the Taluk Land Board to consider and pass orders on Ext.P2.

2. W.P(C) No.16552 of 2007 is filed by five persons who were assigned lands which were taken possession of by the Taluk Land Board as excess lands pursuant to orders in the ceiling case from the predecessor-in-interest of the petitioner in W.P(C) No.6304 of 2005. They applied before the District Collector for demarcating the plots assigned to them. The

District Collector did not take steps on the application of the petitioners because of the pendency of W.P(C) No.6304 of 2005. Therefore, they seek a direction to the District Collector to demarcate the plots allotted to the petitioners as per Exts.P1 to P5. Since in view of the fact that W.P(C) No.16552 of 2007 was filed only because of the pendency of W.P(C) No. 6304 of 2005, I have directed that these cases are to be posted together for hearing.

3. In W.P(C) No.6304 of 2005, I wanted the petitioner to satisfy me as to why the petitioner's writ petition should not be dismissed for delay and laches since Ext.P2 application was filed 25 years after finalisation of the ceiling case as per Ext.P1. The learned counsel for the petitioner contends that there is no limitation prescribed under Rule 136 A of the Kerala Land Reforms (Tenancy) Rules and therefore, there is nothing wrong in filing an application after 25 years.

According to him, the petitioner noticed the mistake in the order only now and immediately on noticing the same, he filed Ext.P2 application. He would further submit that the petitioner had exercised due diligence and the petitioner cannot therefore be accused of delay and laches.

4. After hearing, I am not inclined to accept the explanation submitted by the petitioner in W.P(C) No.6304 of 2005. If there was in fact a mistake, it is difficult to believe that it would take 25 years to detect the same. Many things have happened to the properties taken over from the declarant, in between, as is evidenced by W.P(C) No.16552 of 2007. All or substantial portion of the properties taken over from the original declarant has been assigned to landless labourers as ordained in the Kerala Land Reforms Act. The very object of the ceiling provisions of the Kerala Land Reforms Act is to take over the land for assignment

to landless labourers. The petitioner has slept over his rights for 25 years. At this point of time, if the alleged mistake is permitted to be corrected (even assuming that there is any such mistake), I am of opinion that it would alter the settled rights of other parties which cannot be allowed at this point of time. Even though there is no limitation prescribed under Rule 136 A, the petitioner ought to have exercised diligence in finding out mistake within a reasonable time, which he has not done. Therefore, I am not inclined to entertain W.P(C) No.6304 of 2005 by exercising my discretionary jurisdiction under Article 226 of the Constitution of India and accordingly the same is dismissed.

5. Now that W.P(C) No.6304 of 2005 is dismissed, there cannot be any impediment for the second respondent, the District Collector, in taking appropriate steps on Ext.P13 in W.P(C) No.16552 of 2007. Accordingly, there would be a direction to the

District Collector to consider Ext.P13 and take appropriate follow up action, in accordance with law and complete the same as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this judgment. W.P(C) No.16552 of 2007 is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007